

LEGAL EDUCATION AND DEVELOPMENTThe Law Teacher in Malaysia

by

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Prior to 1957 when a department of law was started in the University of Malaya then in Singapore, the only way in which a person from Malaysia could become legally qualified was to go to England, read law in a University there and be called to the Bar in England or be enrolled as a Solicitor in England. In addition persons from Sabah and Sarawak could qualify in Australia or New Zealand. In October 1957 the Department of Law was started in Singapore and Law was taught as a subject in the Faculty of Arts. As the University of Malaya in Singapore then served the needs of both the Federation of Malaya and Singapore, there were a number of students from Malaysia who took the course in law. On November 9th 1959 the department became the Faculty of Law and in July 1961 the first graduates of the Faculty of Law were announced. The course at the University was planned to be a four year course combining the academic and certain professional aspects of the law and the degree of Bachelor of Law was recognised both by the Singapore and the Malayan governments as an initial qualification for admission to the legal profession. It was therefore unnecessary for the Malaysian student who wished to qualify in law to go to England to do so, but nevertheless large numbers of them still did so, as not all applicants could be accepted by the University of Malaya.

The University of Malaya itself later split into the University of Singapore and the University of Malaya, which moved to Kuala Lumpur but Malaysians still had to go to Singapore to take the Bachelor of Laws degree as there was no Faculty of Law in the University of Malaya in Kuala Lumpur. In the meantime pressure was mounting for the establishment of a Faculty of Law in the University of Malaya in Kuala Lumpur. Eventually after a Board of Studies, containing representatives of the Judiciary, the Legal Service, the Bar and the University, had considered the matter and recommended its foundation, the Faculty of Law was established in Kuala Lumpur in 1972. The curriculum at Kuala Lumpur followed that in Singapore but greater emphasis was given to the law in Malaysia and courses were included on Islamic Law and Native Customary Law. The degree of LL.B. of the University of Malaya is recognised as an initial qualification for admission to the legal profession in Malaysia.

The first graduates of the Faculty of Law, University of Malaya were announced in 1976. In the meantime the University of Singapore had cut down its intake of Malaysians into the Faculty of Law and this year it has taken no Malaysian student into the Faculty. Entry to the Universities and to the Inns of Court in England has also been restricted. The Faculty of Law in the University of Malaya will therefore virtually become the sole source of law graduates for Malaysia.

Recruitment

Recruitment to the Faculty of Law is from the successful students in the Higher School Certificate or Sijil Tinggi Pelajaran examination which is held in Malaysia in conjunction with the University of Cambridge. At present there is a Central Unit for admission into the five Universities in Malaysia. All applicants are graded by the computer in order of merit and they are then selected on the basis of this order of merit and their choice of preference. Applicants are not interviewed for entry into the Faculty of Law and the only special requirement for entry is that the applicant should have obtained a credit in both English and Malay at the School Certificate level.

At present applications are received from those who come from the English stream and have sat for the Higher School Certificate and from those who came from the Malay stream and have sat for the Sijil Tinggi Pelajaran but in and after 1985 all the applicants will be from the single Malay or National Stream who have taken the Sijil Pelajaran Tinggi.

The computer lists are sent to the various Faculties in the University and each Faculty then makes a preliminary choice of first year students. Each faculty has an Admissions Committee. The number of candidates to be admitted is determined by the Senate on the advice of the Faculty concerned and for the Faculty of Law the number that has been determined is 50. There are in fact two lists of applicants prepared - one for Bumiputra, that is Malays and the natives of Sabah and Sarawak and one for the Non-Bumiputra. By University policy, which in turn reflects national policy, 55 per cent of the places are given to Bumiputra and 45 per cent to the Non-Bumiputra.

In the years 1972, 1973, 1974 and 1975, in fact the numbers admitted were a little above 50 and this enabled some special students to be taken who were not from the previous year's H.S.C. or S.T.P. candidates but this year (1976) a more autocratic control by the Government and the University administration has resulted in only 50 students being selected.

So far law has been a popular first choice among the arts students and therefore has been able to attract the better students in the Arts stream. In the last five years there have been about 400 first choice applicants each year for the places in law, so there has been no difficulty in choosing the students.

There has been no discrimination between men and women and in fact women students have formed almost 50% of the class in all years. The partial quota system for Bumiputra students have also resulted in a fair representation of students from the rural areas (as Bumiputra students come mainly from these areas). The performance of Bumiputra students in the H.S.C. or S.T.P. seems to have steadily improved over the years and some of them have been among the three top students who are awarded University entrance scholarships but the cut-off point for the Bumiputra has been lower than that for the Non-Bumiputra.

Many of the students are awarded scholarships or bursaries by the government or government agencies and under the terms of the scholarship or bursary they are required to serve the government or a statutory body for a certain period after graduation.

Table I
Admission to Year I

<u>Year</u>	<u>Bumiputra</u>	<u>Chinese</u>	<u>Indian</u>	<u>Others</u>	<u>Total</u>
1972	35 (11)	10 (9)	4 (1)	2 (1)	51 (23)
1973	28 (12)	19 (14)	5 (3)	(1)	53 (30)
1974	30 (10)	19 (14)	5 (3)	4	58 (27)
1975	33 (10)	14 (11)	6 (2)	1	54 (23)
1976	28 (7)	17 (9)	3 (1)	2 (1)	50 (19)

(Figures in brackets are for female students)

Table II
Distribution by States

State	Students According to Year of Intake										Total	
	1972		1973		1974		1975		1976			
	M	F	M	F	M	F	M	F	M	F	M	F
Johore	2	5	4	5	3	4	6	0	4	3	19	17
<u>Kedah</u>	2	2	1	1	3	1	2	1	2	0	10	5
<u>Kelantan</u>	1	1	1	1	2	0	4	2	4	1	12	5
<u>Melaka</u>	2	0	0	2	2	4	0	1	0	1	4	8
N. Sembilan	2	1	0	4	1	1	2	1	1	1	6	8
Pahang	3	1	1	1	1	2	1	2	4	1	10	7
P. Pinang	0	4	2	3	0	1	0	2	3	1	5	11
Perak	5	3	4	3	6	2	4	2	1	4	20	14
<u>Perlis</u>	0	0	1	0	0	0	0	0	1	0	2	0
<u>Sabah</u>	1	0	1	1	2	0	2	0	1	0	7	1
<u>Sarawak</u>	2	1	1	0	4	0	1	0	3	1	11	2
Selangor	8	5	5	9	4	12	6	12	6	4	29	42
<u>Trengganu</u>	0	0	1	0	2	0	2	0	2	1	7	1
Federal Terri- Territory	0	0	1	0	1	0	1	0	0	0	3	0
Total	28	23	23	30	31	27	31	23	32	18	145	121
	(51)		(53)		(58)		(54)		(50)		(266)	

Note: The names of states underlined indicate those which are more rural and less developed.

M = Male

F = Female

Table III
Scholarship and Non-Scholarship Holders

Batch	<u>Scholarship</u>		<u>Bursary</u>		<u>Financial Aid</u>		<u>Loan</u>		<u>Total</u>		<u>Non-Scholars</u>	
	B	NB	B	NB	B	NB	B	NB	B	NB	B	NB
1972	18	2	7	3	3	6	0	0	28	11	7	5
1973	23	5	3	1	0	0	2	1	28	7	-	18
1974	15	3	5	6	0	0	8	2	28	11	3	16
1975	25	7	5	3	0	0	2	0	32	10	1	11
1976	9	0	6	0	1	0	4	0	20	0	8	22

B = Bumiputra

NB = Non-Bumiputra

Table IV

Distribution by Language Medium

Year of Intake	Malays		Sabahan		Sarawakians		Chinese		Indians		Others (including Pakistanis, Ceylonese & Eurasians		Total		Grand Total
	M	E	M	E	M	E	M	E	M	E	M	E	M	E	
1972	6	21	0	2	0	2	0	10	0	4	0	2	6	41	51
1973	9	17	0	1	0	1	0	19	0	5	0	1	9	44	53
1974	8	18	0	2	0	3	0	19	0	3	1	4	9	49	58
1975	17	13	0	2	0	1	0	14	0	6	1	0	18	36	54
1976	13	11	0	0	0	4	0	17	0	3	0	2	13	37	50

M = Malay Medium
E = English Medium

The Board of Law, the Faculty, the Senate and the Council of the University have agreed that the intake of students into the Law Faculty should be increased to 100 a year but unfortunately the necessary funds have not so far been approved by the Government.

In past years a few students who had shown their commitment to law studies by sitting for the External degrees of the University of London have been admitted to the faculty. The faculty would also like to have a few senior students from graduates or serving officers in the police or customs services. Unfortunately this year (1976) the recommendations of the Faculty were not accepted by the administration.

Content and Curriculum

The content and curriculum were determined in the first instance by the Board of Studies, which as stated earlier had representatives of the Judiciary, the Government Legal Service and the Bar. They were to a large extent based on the content and curriculum of the LL.B. course in Singapore.

One important addition was the teaching of language. English was taught to all students from the Malay stream and Malay to all students from the English stream. There is an intensive language course of six hour periods for each student in the first year, but this is reduced to a three hour period in the second and in the third years.

There has also been constituted a Board of Law with the Vice-Chancellor as Chairman, and representatives from the Faculty, the Judiciary, the Legal Department and the Bar. The Board discusses questions of general policy for example the rate of admissions and has made recommendations for emphasis to be given to certain subjects, for example, Administrative Law and Criminal Procedure. The Board of Law reports to the Senate.

The present curriculum is shown in the attached table.
(Table V).

Table V

	<u>Compulsory</u>	<u>Optionals</u>
1st Year	Malay or English Malaysian Legal System Law of Contract	Malaysian Economy Introduction to Sociology Other subjects in Faculties of Arts or Economics and Administration.
2nd Year	Malay or English Constitutional Law Family Law Criminal Law Land Law	One subject from Faculty of Arts or Faculty of Economics and Administration.
3rd Year	Malay or English Law of Associations Equity and Trusts Law of Evidence	Two of the following: Administrative Law Public International Law Revenue Law Islamic Law Customary Law
4th Year	Jurisprudence Civil Procedure Administration of Criminal Justice	Two of the following: Commercial Transactions Labour Law Legal Drafting Landlord and Tenant Revenue Law Islamic Law Customary Law

Teaching Methods

The usual course consists of two lectures a week and one tutorial for each student a week. Tutorials are held in groups of 10.

Up till the session 1974-1975 all lectures and tutorials were given in both English and Malay. In the session 1974-75 all first year lectures were given in Malay only but tutorials in the first year were given in English only. This year (1975-1976) all first and second year lectures are given in Malay but tutorials are given in English. There is one exception in that the lectures by Prof. M.P. Jain, a Visiting

Professor on Constitutional Law and Administrative Law are given in English but there are also lectures in those subjects in Malay for students from the Malay stream.

The plan is to introduce lectures in Malay only for the third year in the 1976-1977 session and for the fourth year in the 1977-1978 session. Tutorials will be given in English. In addition to lectures and tutorials, case classes are held in certain subjects.

Clinical education

Clinical education has not yet been introduced. Students are expected to spend part of their long vacation after the second year in attachment to courts, legal aid bureaus, legal departments or firms of advocates and solicitors.

In addition moots are held for all students in the third year.

All students in the fourth year are required to do a project paper. They are encouraged to do such projects on practical and applied aspects of the law and are expected to do the field work and interviews during the long vacation after the third year.

Examinations and assessments

Examinations are held at the end of each session. The examinations follow the pattern of questions at British universities and there is a mixture of book-work and problem questions. In most papers students are allowed to bring the relevant statutes to the examination hall.

In addition there is continuous assessment throughout the year by the writing of essays and assignments and tests and 30% of the marks is allotted to this "class-work".

External examiners are appointed for the final (fourth year) examinations. They consist of a Judge of the Federal Court in Malaysia and three Professors of Law from Australia.

Special Programmes

The Faculty of Law offers courses in law to students from the Faculties of Arts and of Economics and Administration.

In addition it runs courses on Commercial Law and Public Law in the Faculty of Economics and Administration and also gives lectures in law in the Faculties of Engineering and Medicine.

Lecturers from the Faculty also offer courses in law at other universities, that is, the National University, the University of Technology, Nilam Puri in Kelantan and the Mara Institute of Technology.

Post-Graduate studies

From its inception the Faculty has accepted post-graduate students who have registered for the Ph.D or LL.M. by thesis.

This year the Faculty has begun to offer a course for the LL.M. by course work and dissertation. The course is confined to tutors and other members of the staff and there are three subjects offered - Comparative Constitutional Law, Islamic Law and Comparative Family Law.

Textbooks and Teaching Material

Most of the textbooks which are used are still the English, Indian or Australian textbooks.

In the early formative years the Faculty members have concentrated on the production of translations of the basic statutes into Malay. So far the following statutes have been translated for use in the University -

- (a) The Civil Law Act
- (b) The Interpretation Act
- (c) The Contract Act
- (d) The National Land Code

There are official translations of the Federal Constitution, the Penal Code and of the recent Law Reform (Marriage and Divorce) Act, and official draft translations of the Evidence Act and the Criminal Procedure Code.

Monographs in Malay have been produced on the Malaysian Legal System and on Muslim Family Law. A member of the staff has published a book on Customary Law in Malay.

It has also been found necessary to make copies of cases and articles for the use of students.

Indonesian textbooks are used as reference works for Customary Law, Islamic Law and Jurisprudence.

Legal Literature and Law Publishing

In the pre-independence period a number of British administrators interested themselves in Malay Customary Law and they were instrumental in editing and publishing some of the collections of Malay laws like those of Malacca, Perak, and Pahang. In addition administrators like J.R. Logan, R.J. Wilkinson, W.E. Maxwell and E.N. Taylor wrote on Malay customary law.

There were also books written by lawyers like Sir Benson Maxwell (former Judge) on the Duties of Straits Magistrates, Sir William Napier on the Laws of the Straits Settlements, J.R. Innes on Land Registration, A de Mello on the Law of Extradition and Fugitive offenders, Sir Roland Braddell on the Laws of the Straits Settlements, the Legal Status of the Malay States and Common Gaming Houses and S.K. Das on the Torrens System.

Law Reports were produced by J.N. Kyshe, the Registrar of the Supreme Court, and by S. Leicester and R.C. Woods. Subsequently official reports were issued but these have now been replaced by the Malayan Law Journal begun by Bashir A. Mallal in 1932. Bashir A. Mallal was a pioneer of legal education, research and publication and besides the Malayan Law Journal, he has produced the Straits Settlements Practice (later the Supreme Court Practice), the annotated Criminal Procedure Code, Malayan Cases and Mallal's Digest of Malayan Cases.

The Faculty of Law in Singapore has produced some textbooks on Singapore and Malaysian law among which may be mentioned the books of L.A. Sheridan and of H. Groves on Constitutional Law, S. Jayakumar's case books on Constitutional Law and on International Law, Dr. S.M. Thio's book on Locus Standi, Mr. P. Pillai's book on

Company Law and K.L. Koh and Myint Soe book on the Penal Code. Books on the Malaysian Constitution have also been produced by Tun Mohamed Suffian (now Lord President) and in Malay by Tan Sri Salleh Abas, at present Solicitor-General, Malaysia.

Both the faculties of Law in Singapore and in Malaya have produced journals. The Faculty of Law, University of Malaya's journal, the Journal of Malaysian and Comparative Law, has been produced since 1974.

Research

In the early formative years the energies of the staff members of the faculty had perforce to be given to the preparation of undergraduate teaching. There has been little opportunity and time for research.

A number of the staff members are registered for higher degrees in the University of Malaya, but their progress has been slow.

One LL.M. student has presented his thesis on "The Amendment Process in the Malaysian Constitution" and has been awarded the degree.

There are now 11 students registered for the degree of LL.M. by thesis (including four students from the National University).

One staff member is doing research for the degree of Ph.D in London.

Law Teachers

There are four grades of teachers - Professors, Associate Professors, Lecturers and Tutors.

There has been no difficulty in filling the post of lecturers. The Faculty of Law was lucky in being able to get the services of some scholars who had been sent by the Government or Government agencies to study in England, and who on their return have been allowed to join the University to serve their period of service under the scholarship bonds (for three to five years). Most of the lecturers have already obtained their Masters degree but two lecturers were appointed from the practising Bar.

Table 1

<u>Lecturers</u>	<u>LL.M. (London)</u>	<u>LL.M. (Singapore)</u>
13	5	1
	<u>LL.M. Wellington, N.Z.</u>	<u>LL.M Belfast</u>
	1	1
	<u>LL.B. Singapore</u>	
	2	

Until recently it was difficult to appoint and to retain tutors but this year there are more applicants than places and five tutors have been appointed, two graduates from Singapore and three from Malaya.

It has been much more difficult to fill the posts of Professor and Associate Professor - and two posts of Professor and two posts of Associate Professor have been vacant since 1972.

Of the 19 staff members, 8 are legally qualified and have been called to the Bar; 3 are reading in Chambers prior to being called.

Vacancies for the Chairs, for the Associate Professors and for lecturers are advertised not only locally but also abroad. Vacancies for tutors are advertised locally.

There is a University Selection Board for the selection of staff but unfortunately at present the Dean is not a member of the Selection Board and is only called as an adviser. Some difficulty has therefore been experienced in persuading the Board to offer appointments to persons, who are considered desirable by the Faculty.

Library

At present the Law Library has 35,000 textbooks, 199 titles of law reports and 179 titles of journals. It has been able to obtain the Minimum Holdings recommended by the Society of Public Teachers in Law.

The Library has been fortunate in being able to buy the libraries of two practising advocates and solicitors, one in Singapore and one in Kuala Lumpur and also part of the library of a Judge, who had died.

A capital grant of \$500,000 was given to the Faculty of Law for its library and the annual grant is \$60,000. It is hoped that a further grant of \$500,000 will be given under the Third Malaysia Plan.

The National Language as a vehicle for law

The Federal Constitution provides that the national language is Malay and under the National Language Act, all official acts should be in the Malay Language. Acts of Parliament and subsidiary legislation are published in both languages, Bahasa Malaysia and English. Some of the old acts are still in English and amendments to such acts are also made in English. Proceedings in the lower courts are gradually changing to being held in Malay but English is still the language used in the High Court and the Federal Court. Judgments in the High Court and in the Federal Court are given and published in English.

As part of the national education policy, the medium of instruction in all Universities in Malaysia will change to Bahasa Malaysia in 1985 but already teaching in Malay has been progressing at a steady pace in the University of Malaya.

All lectures in the first year in the Faculty of Law were given in Bahasa Malaysia in the 1975-1976 session and in the present 1976-1977 session all lectures in the 1st and 2nd year (except those by Visiting teachers) are given in Bahasa Malaysia. It is expected that by the 1978-1979 sessions all lectures in all years will be given in Bahasa Malaysia. Tutorials will however continue to be conducted in English.

Bahasa Malaysia and English are taught as languages in the Faculty and it is hoped that all graduates will be proficient in both languages.

Most of the staff are able to teach in Bahasa Malaysia and in English.

There are problems in teaching in Bahasa Malaysia mainly because of the lack of conceptual terms but these problems are not insurmountable. No difficulty is envisaged in carrying out the programme for a complete change in the medium of instruction by 1980.

A more worrying problem is the lowering in the standard of English which is noticeable not only in those who have come from the Malay stream, but even in those from the English stream. Steps are being taken in the University to improve the teaching of English by the adoption of TESL methods.

Finance, budgetting and law school government and administration

The votes approved were as follows:-

	<u>1972</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>
Vote A - Stationery	\$ 4,853	\$ 3,538.84	\$ 3,400.00	\$ 3,471.00
Vote B - Transport	1,000	200.00	1,600.00	1,103.00
Vote C - Teaching Material	2,200	3,649.31	5,800.00	5,179.00
Vote D - Equipment	550	1,011.85	1,600.00	1,288.00
Vote E - Purchase of Special Equipment	10,000	600.00	-	-

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BM.2-21	Transport	\$1,603.00
BM.2-23	Postage etc	250.00
BM.2-26	Printing	500.00
BM.2-27	Equipment	8,188.00
BM.2-28	Miscellaneous	500.00

The Faculty of Law consists of the Dean, Deputy Dean and professors and lecturers. Its decisions are subject to approval by Senate and in matters of finance and policy also by the Council. The Faculty has an Administrative Assistant, a clerical officer, stenographers and typists.

Graduates

Forty-six students graduated from the Faculty in 1976. The breakdown of these graduates are as follows:-

<u>Bumiputra</u>	<u>Non-Bumiputra</u>	<u>English Stream</u>	<u>Malay Stream</u>	<u>Total</u>
30	16	40	6	46

It is too early yet to state the occupations of the graduates but they may be divided tentatively as follows:-

Government Service	- 28
University Teacher	- 4
Bank Negara	- 2
Practice as advocate and solicitor	- 9
Employment in private sector	- 3

Position of Law Teacher

Although some of the teachers at the Faculty are legally qualified and have been called to the Bar, they have not been allowed to practise at the Bar, even as counsel. They are however permitted to give opinions when requested by advocates and solicitors.

Members of the faculty have been asked to advise on the redraft of the Administration of Muslim Law Enactment in Selangor and on the administration of Wakafs in Penang.

Members of the Faculty have also taken active part in conferences held by the Malaysian Bar and also in international conferences like the Conference of the Commonwealth Magistrates Association and the Asian-African Legal Consultative Committee.

Because of their being barred from practice, the law teachers find it difficult to keep in touch with the practice of the law. The Dean of the Law Faculty is a member of Advisory panel of the Malayan Law Journal and is also on the Law Revision Committee. Apart from that the Faculty maintains close personal and social contacts with the members of the Judiciary, the Legal Service and the Bar.

The Second and Third Malaysia plans have two main objectives: (a) the eradication of poverty both urban and rural and (b) the restructuring of society. In regard to the second objective more opportunities will be given to the Bumiputra - the Malays and the natives of Sabah and Sarawak - to have a more equitable share in commerce, industry and the learned professions. It is in this respect that the Faculty of Law in the University of Malaya can play its part in increasing the number of Malay and native lawyers. From the list of advocates and solicitors in West Malaysia at the end of 1975 it appears that there were 994 advocates and solicitors. The Malays constituted only 103 in number or about 10.4%.

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The number of Malays in the Legal Services was 70 as compared with 37 non-Malays giving a percentage of 65.42 Malays and 34.58 non-Malays.

It is hoped that the Faculty will be able to produce an equal number of Bumiputra and non-Bumiputra graduates and this will help to improve the position of Malays in the legal profession.

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